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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,102	11/02/2001	Tomio Endo	01710/LH	4221

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EXAMINER

PHAN, JAMES

ART UNIT PAPER NUMBER

2872

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,102

Applicant(s)

ENDO ET AL.

Examiner

James Phan

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 7-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 11 is/are rejected.
- 7) ☒ Claim(s) 6 and 16-25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 and 5. 6) ☐ Other: .

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DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I and species (1) in Paper No. 7 is acknowledged.

Claims 4 and 7-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/ species. Election was made **without** traverse in Paper No. 7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-2 and 11 are rejected under 35 U.S.C. 102(a) as being anticipated by Nishida, U.S. Pat. No. 6,157,484.

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Nishida discloses a pattern formation member (rotation disk 10) which comprises an irradiation section for passing light and a cutoff section for shielding light. The irradiation section and the cutoff section having straight patterns disposed alternatively. See Figs. 14-15(b) and column 12, line 64 to column 13, line 5.

Claims 1-2 and 11 are rejected under 35 U.S.C. 102(a) as being anticipated by Wilson et al.

Wilson et al discloses a pattern formation member (rotation disk 17) which comprises an irradiation section for passing light and a cutoff section for shielding light. The irradiation section and the cutoff section having straight patterns disposed alternatively. See Fig. 4 and column 4, line 65 to column 5, line 4.

Claims 1-3 and 11 are rejected under 35 U.S.C. 102(a) as being anticipated by the admitted prior art (Fig. 3) of Endo et al, U.S. Pat. No. 6,426,835.

The admitted prior art (Fig. 3) of Endo et al discloses a pattern formation member (rotation disk 24) which comprises a linear pattern section (24a) having straight patterns disposed alternatively. See Fig. 3 and column 2, lines 14-22.

Claims 1-3, 5, 11-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Endo et al, U.S. Pat. No. 6,426,835.

In re claims 1-3 and 11 Endo et al discloses a pattern formation member including a rotation disk (62 in Fig. 6; 64 in Fig. 9) which comprises a linear pattern

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section (62a; 64a) having straight patterns disposed alternatively. See Figs. 6 and 9 and the accompanying text.

In re claims 5 and 12-15 see Fig. 22 and the accompanying text.

The applied reference has a common inventor with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claims 1-3 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsuo, U.S. Pat. No. 6,320,185.

Matsuo discloses a pattern formation member (rotation disk 71) which comprises an irradiation section for passing light and a cutoff section for shielding light. The irradiation section and the cutoff section having straight patterns disposed alternatively. See Fig. 20 and the accompanying text.

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Allowable Subject Matter

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Claims 6 and 16-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: none of the cited references teaches or fairly suggests a pattern formation member having the structure specified in claim 6. Claims 16-25 are dependent on claim 6 and thus are allowable at least for the same reason.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Phan whose telephone number is (703)308-4810. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on (703)308-1867. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703)308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

Phan, J.
April 18, 2003


James Phan
Primary Examiner